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Federal Communications Commission
Office of General Counsel

January 29, 1997

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, NW.
Washington, D.C. 20554

Re: CC Docket Nos.: 96-262; 94-1; 91-213; and 96-263

Dear Mr. Caton:

Pursuant to the Notice of Proposed Rulemaking, Third Report and Order, and Notice of Inquiry in the above captioned matter, enclosed please find an original and sixteen copies of the Comments of the Ad Hoc Telecommunications Users Committee. Please date stamp the additional copy and return it with our messenger.

If you have any questions regarding this filing, please do not hesitate to call.

Sincerely,

Colleen Boothby

Colleen Boothby

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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JAN 29 1997

*Federal Communications Commission
Office of Secretary*

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| In the Matter of |) | |
| |) | |
| Access Charge Reform |) | CC Docket No. 96-262 |
| |) | |
| Price Cap Performance Review |) | CC Docket No 94-1 |
| for Local Exchange Carriers |) | |
| |) | |
| Transport Rate Structure |) | CC Docket No. 91-213 |
| and Pricing |) | |
| |) | |
| Usage of the Public Switched |) | CC Docket No. 96-263 |
| Network by Information Service |) | |
| and Internet Access Providers |) | |

**COMMENTS OF AD HOC
TELECOMMUNICATIONS USERS COMMITTEE**

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SUMMARY

The need for access reform is irrefutable, but access reform must be economically sound and properly sequenced.

Generally speaking, the goal of rate regulation should be to produce, in the absence of effective competition, a marketplace for carriers and their customers that emulates competitive markets as closely as possible. The existing interstate access charges must be lowered significantly to produce a rate levels similar to those that would be produced by a competitive marketplace. But the Commission must coordinate its proposed changes to the access rules in a manner that minimizes unnecessary churn and burdens on customers. Accordingly, the Commission should adjust rate levels to reflect the use of forward-looking economic costs for access service rates before, or at the same time, that it prescribes changes in the interstate access service rate structure. The Commission should be as concerned about the economic implications of a new rate structure for users as it appears to be regarding the need to give LECs greater pricing flexibility.

The Committee endorses some of the rate structure changes proposed by the Notice. In particular, the Ad Hoc Committee supports the Commission's conclusion that usage-sensitive recovery of NTS loop costs is economically inefficient and should be replaced by a cost recovery mechanism that more accurately reflects the NTS nature of loop costs. The Ad Hoc Committee supports the Commission's tentative recommendation that the SLC cap for non-

primary residential and multi-line business lines be raised but only to the level of the per-line loop costs assigned to the interstate jurisdiction. If the Commission finds that unrecovered loop costs remain, it should require the price cap ILECs to assess CCL charges based on the number of end-users presubscribed to each IXC, and end users who are not presubscribed to an IXC should be assessed directly.

While the Commission should apply the same theoretical principles as are discussed above to the establishment of a rate *structure* to recover ISDN and derived channel costs, it should not establish the levels of the respective rates themselves until it has given interested parties an opportunity to review and comment on relevant cost data and it has adequately analyzed all the information it needs to make a sound decision as to the appropriate rate levels.

The ILECs should recover non-traffic-sensitive local switching costs on a flat-rated basis only if reliable data establishes that the economic benefits of moving to such a rate structure outweigh the attendant costs, both economic and otherwise. The Ad Hoc Committee supports flat-rated (rather than per-minute) charges to recover non-traffic-sensitive costs, such as the costs of dedicated trunks, line cards, and ports. Before changing the current rate structure, the Commission should weigh the economic efficiency benefits of a new rate structure against the transaction and other costs of moving to the new structure. If the Commission nevertheless decides to permit ILECs to impose a call set-up charge, it should phase in the charge to minimize the adverse effects of the

charge on the economy generally. The Commission should neither permit nor require price cap ILECs to impose different charges during peak and off-peak periods because such disparate rates would be difficult to administer and would create customer confusion.

The Ad Hoc Committee supports the Commission's tentative conclusion to revise the Transport Interconnection Charge to remove readily identifiable and quantifiable cost misallocations, reassign costs to other elements when warranted by a forward-looking cost methodology, and phase out the remainder under either of the two de-regulatory approaches discussed in Sections IV, V, and VI of the *Notice*.

The Commission has asked whether it should institute a new rate structure for SS7 signalling similar (but not identical) to that for which it granted Ameritech a waiver of Part 69. The movement to (or expansion of) a usage-sensitive rate element to recover costs that previously had been recovered on a non-traffic-sensitive basis would send confusing price signals to the markets for access and interexchange services and raise rate shock and churn concerns. The Commission should not make any final decision on SS7 rate elements unless it has first resolved the more fundamental issue of which costs the price cap ILECs will be permitted to recover. For these and other reasons, the Commission should defer consideration of new SS7 rate elements to a later proceeding.

Ad Hoc agrees with the Commission's long term goal of competition in the access service market. Pending the development of competition in local exchange access markets, the Commission must protect access customers and potential competitors with a prescriptive approach based on a forward-looking, long-run incremental cost standard to replicate the prices and economic results produced by a competitive market.

The Commission cannot rely on a market-based approach to discipline pricing unless and until competition develops. The Commission can apply a market-based approach when sufficient competition develops to create marketplace pressure on ILEC pricing but only when there is competition generally throughout the entire market segment and markets do not have substantial joint and common costs.

Ad Hoc supports a TSLRIC measure of economically efficient costs. Guaranteed recovery of embedded costs is contrary to the existing regulatory regime.

ILECs get substantial benefits under the new competitive paradigm which enables the ILECs to increase their overall earnings above traditional regulatory levels. Moreover, the ILECs made the majority of their current book investment in the context of the explicit allocation of risks and benefits to them under incentive regulation. Therefore, recovery of any alleged stranded investment should not be guaranteed.

An ILEC should be given the ability to choose whether it or its ratepayers are to bear the risks and burdens and reap the rewards and benefits of the ILEC's investment decisions. If an ILEC decides that its ratepayers should make it whole, then it is entirely appropriate that the ILEC be strictly limited in its earnings enhancement opportunities. Alternatively, if the ILEC wants the earnings flexibility of the present price cap regime, it should be required to treat the stranded investment "gap" the same way that firms in competitive markets would do: write-off the "gap" without specific recovery.

The Commission has correctly recognized, at paragraph 223 and 248 of the NPRM, that steps will need to be taken to reconcile the existing price cap rate levels with the requirement that access charges be set at TSLRIC. The Commission proposes to reinitialize the Price Cap Index or re-initialize rates to a lower level. Ad Hoc supports rate reductions to TSLRIC levels, and on an ongoing basis rates should continue to accurately reflect the then-extant TSLRIC.

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CC Docket No. 96-262

Price Cap Performance Review
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Transport Rate Structure
and Pricing

CC Docket No. 91-213

Usage of the Public Switched
Network by Information Service
and Internet Access Providers

CC Docket No. 96-263

Comments of the Ad Hoc Telecommunications Users Committee

INTRODUCTION

The need for access reform is irrefutable, but access reform must be economically sound and properly sequenced.

In the paragraphs that follow, the Ad Hoc Telecommunications Users Committee comments on the variety of rate structure changes and de-regulation initiatives proposed in the Commission's Access Reform Rulemaking. The *Notice* states that there is consensus among virtually all of the participants in the telecommunications industry on the need for reform of the Commission's

interstate access charge rules.¹ Many of those participants agree that the interstate access charges exceed just and reasonable levels by a significant amount. The Commission should count the Ad Hoc Committee as among those who support fundamental reform of the interstate access charge rules and a substantial downward adjustment in rate levels. Indeed, almost three years ago, Ad Hoc urged the Commission to initiate such reform.²

Generally speaking, the goal of rate regulation should be to produce, in the absence of effective competition, a marketplace for carriers and their customers that emulates competitive markets as closely as possible. The Communications Act of 1934, as amended, captures that goal by requiring that the rates for interstate telecommunications common carrier services be just and reasonable and not unreasonably discriminatory.³

The existing interstate access charges must be lowered significantly to produce a rate levels similar to those that would be produced by a competitive marketplace. Purchasers of interstate access services are paying far more for such service than they would if the access service market were effectively competitive.

¹ *Access Charge Reform and Transport Rate Structure and Pricing*, CC Dkts. Nos. 96-262 and 96-213, FCC 96-488, Notice of Proposed Rulemaking (released December 24, 1996) ("NPRM") at ¶ 41.

² Ad Hoc Telecommunications Users Committee, "Petition for Rulemaking" (Amendment of Part 36 and Part 69 of the Commission's Rules to Effect Comprehensive Reform of the Access Charge System), April 15, 1994.

³ 47 USC §§ 201-202 (1995).

As noted in the NPRM, there are several reasons for excessive interstate access service rates.⁴ Ad Hoc believes that interstate access service rates are incontrovertibly overstated because of: (i) excessive allocations to the interstate jurisdiction as a result of the Jurisdictional Separations process in Part 36 of the Commission's Rules; (ii) bloated implicit Universal Service subsidies; (iii) an improperly specified "X" factor in the Commission's price cap rules; (iv) excessive LEC earnings; (v) use of embedded accounting costs, rather than forward-looking economic costs, to set the Price Cap Indices; and (vi) political pressures. Moving to a forward-looking economic cost basis for interstate access service rates, raising the "X" factor and lowering the LEC's authorized earnings would take care of part of the problem, but not the entire problem. The Commission, however, must continue its separate, but related, effort to properly size the Universal Service funding obligation to be borne by interstate services. As discussed in section II A. of these comments, the Commission cannot rely at this time on the marketplace to force the necessary corrections. Instead, the Commission must rely on its rulemaking authority to lower interstate access rates.

The Commission may intend to prescribe access service rate structure changes even before it moves to forward-looking economic costs as the basis on

⁴ NPRM at ¶ 41.

which interstate access service rates should be set.⁵ The Commission explains that the current rate structure does not "accurately reflect" the way in which LECs incur costs to provide service elements.⁶ Moreover the present rate structure sends inaccurate pricing signals, can promote uneconomic bypass and can skew the development of competition. All of this is undoubtedly true.

The *Notice* does not acknowledge, however, an issue of great concern to Ad Hoc Committee members, namely, the risk of damaging rate churn if the Commission implements its proposals in the wrong sequence. Churn in this context means the costly and burdensome changes in the service arrangements and communications-dependent applications of end users and access customers that would be required to respond to the new rate structures mandated by the Commission, coupled with subsequent swings in rate levels resulting from a Commission adjustment of interstate access service rates to reflect forward-looking economic costs.

Some rate structure changes, such as reducing or eliminating the Carrier Common Line Charge (CCLC), will not produce such churn. Nor will simple price reductions create churn -- users expect interstate switched access charges to fall and have anticipated that the cost slope will move in only one direction -- down.

⁵ See, *NPRM* at ¶¶ 55-56. The Commission tentatively concludes that, "establishing more economically rational rate structure rules is a necessary first step in the new procompetitive era." *NPRM* at ¶ 56.

⁶ *Id.* at ¶ 55.

But Commission prescription of a new call set-up charge that would take effect before reductions in access service rate levels to reflect forward-looking economic costs would, for example, produce significant churn. As explained in section B.1(i) of these comments, a call set-up charge could have devastating consequences for some users. Short call-duration applications could face dramatically higher rates if the call set-up charges are based on embedded accounting costs. They would be forced to change application designs and perhaps the technologies on which they rely. But such changes would not be based on accurate price signals – one of the goals that the Commission seeks to further in this proceeding. The price signals would not be accurate because call set-up charges based on forward-looking economic costs *may* have a negligible, if any, effect on such applications.

The economic waste and the unnecessary costs imposed on significant elements of the national economy will be substantial if the Commission does not coordinate its proposed changes to the access rules in a manner that minimizes unnecessary churn and burdens on customers. Accordingly, the Commission should adjust rate levels to reflect the use of forward-looking economic costs for access service rates before, or at the same time, that it prescribes changes in the interstate access service rate structure. The Commission should be as concerned about the economic implications of a new rate structure for users as it appears to be regarding the need to give LECs greater pricing flexibility.

I. RATE STRUCTURE MODIFICATIONS

A. Common Line (¶¶ 57-70)

1. The ILECs Should Recover Their Local Loop Costs Entirely Through the Subscriber Line Charge.

Incumbent local exchange carriers ("ILECs") currently recover their common line costs through two charges, the subscriber line charge (SLC) and the carrier common line charge (CCLC). The SLC is a flat-rated charge assessed on residential as well as single- and multi-line business users. It is currently capped at \$3.50 per month for residential and single-line business users and \$6.00 per month for multi-line business users.⁷ Common line costs not recovered through the SLC are recovered through the CCLC, which are per-minute charges assessed on interexchange carriers ("IXCs") originating and terminating traffic at an ILEC central office.⁸

In the NPRM, the Commission has recognized that a usage-based CCLC does not reflect the manner in which loop costs are incurred:⁹ Loop costs are not traffic sensitive ("NTS"), but are recovered in part on a traffic-sensitive basis. The Commission correctly concludes that this mismatched method of recovery results in economic inefficiencies.

Citing the Federal-State Joint Board's (the "Joint Board's")

Recommended Decision in the Universal Service proceeding, the Commission

⁷ 47 C.F.R. § 69.104.

⁸ 47 C.F.R. § 69.105.

⁹ *NPRM* at ¶ 58.

suggests that it would be preferable for the ILECS to recover loop costs in a manner that places responsibility for the costs on the cost causer.¹⁰ In this regard, the Commission requests comment on possible modifications to the loop access charge rate structure so that the price cap ILECs do not recover any NTS costs from IXC's on a traffic-sensitive basis.¹¹

The NPRM requests comment on seven proposals, five of which relate to the CCLC, two of which relate only to the SLC. The first proposal, recommended by the Joint Board, would allow price cap ILECs to recover loop costs that are not recovered through the SLC through a flat-rate charge assessed against each line customer's presubscribed interexchange carrier (PIC) or directly against any customer that has not presubscribed to an interexchange carrier.¹²

The other four CCL proposals, advocated by the Competition Policy Institute (CPI), include: (1) recovery of loop costs through "bulk billing," determining the charge based on the percentage share of interstate minutes of use ("MOU") or revenues; (2) recovery through a "capacity charge" based on the number and types of trunks that carriers purchase from the ILECs; (3) recovery

¹⁰ NPRM at ¶ 59 (citing *Federal-State Joint Board on Universal Service*, CC Dkt. No. 96-45, Recommended Decision (released November 8, 1996)).

¹¹ NPRM at ¶ 60.

¹² NPRM at ¶ 60.

through charges based on the number of trunk-side ports; or (4) recovery through charges based on the number of trunk-side ports and line-side ports.

With respect to the SLC, the Commission has, consistent with the Joint Board's recommendation, proposed maintaining the current cap on the SLC for primary residential and single-line businesses. The Commission proposes, however, "increas[ing] the cap on the SLC for the second and additional lines for residential customers and for all lines for multi-line business customers to the per-line loop costs assigned to the interstate jurisdiction."¹³ In the alternative, the Commission has suggested that the cap for non-primary residential lines and multi-line business lines could be eliminated altogether.¹⁴

2. Non-Traffic Sensitive Costs Should Be Recovered on a Flat-Rated Basis.

The Ad Hoc Committee supports the Commission's conclusion that usage-sensitive recovery of NTS loop costs is economically inefficient and should be replaced by a cost recovery mechanism that more accurately reflects the NTS nature of loop costs. This conclusion is consistent with previous Commission decisions.

Over a decade ago, when the Commission evaluated the issue of recovery of local loop costs, it identified four primary objectives: (1) elimination of unreasonable discrimination and undue preference among rates for interstate

¹³ *NPRM* at ¶ 65.

¹⁴ *Id.*

services; (2) efficient use of the local network; (3) prevention of uneconomic bypass; and (4) preservation of universal service (defined in this context as "avoiding actions that would cause a significant number of local exchange service subscribers to cancel this service").¹⁵ The Commission considered the recovery of subscriber line costs considered thoroughly in light of these objectives, noting that "[f]ew, if any, subjects have received more exhaustive attention in the entire history of this Commission."¹⁶

At the time, the Commission found that a flat-rated charge best satisfied its four objectives, and was pro-competitive, since the recovery of NTS costs through flat charges reflects the principle that rates be just, reasonable, and nondiscriminatory: "[A]ny ratemaking philosophy that results in disproportionate cost burdens among customers would generally violate this Commission's objectives and responsibilities."¹⁷ More specifically, the Commission believed that

it would [not] be unfair to require every person who can afford to do so to bear the full cost of that person's line to the telephone company's switch. Any method of recovery that shifts some of the cost of such a person's line to another person's imposes an inequitable burden upon the persons who pay those costs.^[18]

¹⁵ *MTS and WATS Market Structure*, Memorandum Opinion and Order, 97 FCC 2d 682, at ¶ 3 (1983) ("*MTS and WATS*").

¹⁶ *Id.* at ¶ 6.

¹⁷ *Id.* at ¶ 10.

¹⁸ *MTS and WATS*, *supra*, at ¶ 10.

In addition, the Commission found that a flat charge created incentives for more efficient and productive user of the telecommunications network.¹⁹ The same is true today.

In this proceeding, the Commission has reaffirmed its position that it is economically inefficient to require the ILECs to recover NTS costs through usage-sensitive charges. The Ad Hoc Committee agrees, and submits that the simplest and most economically efficient way to recover loop costs is by raising the SLC caps to cost. As the Commission has recognized, recovering loop costs through the SLC is consistent with the way those costs are incurred.²⁰

3. At a Minimum, the Commission should Raise the SLC Cap for Non-Primary Residential Lines and Multi-Line Business Lines.

Notwithstanding the efficiency of Ad Hoc's proposal, the Commission has indicated a firm intention not to raise the SLC cap for primary residential lines and single-line business lines. In light of this position, the Ad Hoc Committee supports the Commission's tentative recommendation that the SLC cap for non-primary residential and multi-line business lines be raised to the level of the per-line loop costs assigned to the interstate jurisdiction.²¹

The Ad Hoc Committee does not, however, support the alternative proposal of imposing SLCs on multi-line businesses and residential lines beyond

¹⁹ *Id.* at ¶ 11.

²⁰ *NPRM* at ¶ 65.

²¹ *Id.*

the primary line that exceed the per-line loop costs of such installations while retaining the current SLCs for primary residential and single-line business installations without regard to the ability of residential and small business subscribers to pay cost-based interstate SLCs.²² The Commission's proposal would create disproportionate cost burdens among customers by requiring one group to shoulder loop costs in excess of those they incur. As discussed above, the Commission has made clear that such burden-shifting could violate the principles of just, reasonable and nondiscriminatory rates.²³

4. A Transition Period is Unnecessary Should the Commission Decide to Raise the SLC Cap.

In the NPRM, the Commission also seeks comment on whether it should establish a transition mechanism if it decides to increase or eliminate the SLC for non-primary residential and multi-line business lines.²⁴ The Ad Hoc Committee does not believe there is a need for a transition period. Transitions are appropriate where the Commission is seeking to avoid disruptions in service and to preserve the efficient operation of the interstate telephone network.²⁵ In the pending Universal Service proceeding, the Ad Hoc Committee and others

²² *Id.*

²³ *MTS and WATS*, at ¶ 10 (1984).

²⁴ *NPRM* at ¶ 66.

²⁵ *National Association of Regulatory Utility Commissioners v. FCC*, 737 F.2d 1095, 1135-36 (D.C. Circuit 1984), *cert. den.*, 469 U.S. 1227 (1985) (affirming the Commission's decision to implement a transitional rate structure to recover some of the interstate share of local exchange costs through a usage sensitive charge assessed on interexchange carriers.).

demonstrated that the SLC can be increased without adversely affecting subscribership levels.²⁶ Thus, a transition period would only delay migration from the economically inefficient usage-based CCLC to the more economically rational flat-rated SLC.

5. The Federal-State Joint Board's Recommendation Is the Most Economically Rational Option the Commission Has Presented.

While the Ad Hoc Committee believes that raising the SLCs for non-primary residential lines and multi-line businesses to per-line loop cost will recover the entire cost of the local loops -- particularly if combined with forward-looking cost structures -- if the Commission finds that unrecovered costs remain, it should require the price cap ILECs to recover those costs (which should be limited) in the manner the Joint Board recommended. In other words, they should assess CCL charges based on the number of end-users presubscribed to each IXC, and end users who are not presubscribed to an IXC should be assessed directly. This option is the only one presented in the NPRM that changes the CCLC from a usage-sensitive charge to an NTS charge.²⁷ All users will pay the same amount per line, whether or not they have presubscribed to a

²⁶ *Federal-State Joint Board on Universal Service*, Reply Comments of the Ad Hoc Telecommunications Users Committee, pp. 16-18, CC. Dkt. No. 96-45 (May 7, 1996); *Federal-State Joint Board on Universal Service*, Comments of the Ad Hoc Telecommunications Users Committee, pp. 27-28, CC. Dkt. No. 96-45 (December 19, 1996).

²⁷ Support of this alternative is not meant to suggest that the Ad Hoc Committee supports a CCL charge. The Ad Hoc Committee maintains, as it has in previous proceedings, that even a flat-rate CCL charge, while an improvement over a usage-based CCL rate structure, has fundamental problems vis a vis increasing the SLCs to cost. See *Federal-State Joint Board on Universal Service*, Comments of the Ad Hoc Telecommunications Users Committee, pp. 22-26, CC. Dkt. No. 96-45 (December 19, 1996).

primary interexchange carrier. There would thus be no discrimination among users – each cost causer pays only for the cost it incurs in having a phone line.

None of the other recommendations in the NPRM share the economic rationality of the Joint Board's recommendation. CPI's suggestions, while not based directly on per-minute charges, are still traffic-sensitive: The bulk billing option is based on each carrier's total MOU or revenues; the capacity charge, trunk port charge, and trunk port and line port charge are all based to some degree on the number of trunks and/or trunk ports. Because carriers decide how many trunks (and thus trunk ports) they need based on their volume of traffic, charges based on trunks or trunk ports would essentially be traffic-sensitive. Adoption of any of CPI's suggested methods for recovering loop costs would therefore not serve any of the Commission's stated goals.

6. The Cost of ISDN and Derived Channel Services Should be Borne by the Cost Causers.

The Commission also seeks comment on whether mandatory rate structures or caps should be prescribed for ISDN service or other derived channels.²⁸ The Ad Hoc Committee continues to support the view that costs should be paid by those who incur them. Thus, to the extent, but only to the extent, ISDN or other derived channel services entail greater costs than their analog counterparts, it would not be economically rational to assess either a higher SLC or multiple SLCs on the use thereof. However, calculating what the

²⁸ NPRM at ¶ 71.

SLC should be (or how many SLCs should be assessed) requires reliable data. To date, the carriers have furnished insufficient cost support to permit any decision on ISDN or derived channel SLCs at this time.

Specifically, insufficient data has been provided to account for the determination of the 1.24 to 1 and 10.5 to 1 ratios the Commission discusses in the NPRM. While the Commission should apply the same theoretical principles as are discussed above to the establishment of a rate *structure* to recover ISDN and derived channel costs, it should not establish the levels of the respective rates themselves until it has given interested parties an opportunity to review and comment on relevant cost data and it has adequately analyzed all the information it needs to make a sound decision as to the appropriate rate levels.

B. Local Switching (¶¶ 71-80)

1. The ILECs Should Recover Non-Traffic-Sensitive Local Switching Costs on a Flat-Rated Basis Only If Reliable Data Establishes that the Economic Benefits of Moving to Such Rate Structure Outweigh the Attendant Costs, both Economic and Otherwise.

It has been generally recognized that it is economically inefficient for local exchange carriers ("LECs") to recover non-traffic-sensitive costs through traffic-sensitive charges.²⁹ Basic economic theory teaches that alignment of prices and costs is necessary in order to achieve the optimal level of demand and the most efficient use of society's resources. To the extent prices are not aligned with costs,

as when a usage-sensitive pricing structure is used to recover a largely fixed (non-usage-sensitive) cost, the optimal, economically efficient level of end user demand for the service will be curtailed.

The Federal-State Joint Board on Universal Service explained this point in the context of local loop costs: "To provide proper economic signals, it would be preferable for prices related to the loop, such as the CCL charge, to be set in a manner that is consistent with the manner in which the loop's cost is incurred," namely on a flat-rate or non-usage-sensitive basis.³⁰

In the NPRM, the Commission tentatively concluded that it would be more economically efficient to recover dedicated line card costs through flat charges than through the present per-minute local switching charges,³¹ since the "costs associated with the line cards . . . appear to vary with the number of loops connected to the switch, not with the level of traffic over the loops."³²

Similarly, the Commission reasoned that, "because trunks for dedicated transport service are dedicated to individual IXC's, ports for dedicated transport service also appear dedicated to individual customers and, consequently, the

²⁹ See, e.g., *Federal-State Joint Board on Universal Service*, CC Dkt. No. 96-45, Recommended Decision of Joint Board (released November 8, 1996) ("Recommended Decision") at ¶ 775.

³⁰ Recommended Decision at ¶ 775. The Joint Board "recognize[d] that the usage-sensitive CCL constitutes an inefficient mechanism for recovering NTS loop costs." *Id.*

³¹ Section 69.106 of the Commission's Rules, 47 C.F.R. § 69.106, presently requires ILECs to charge per-minute rates for local switching, which includes line card and line-side port costs.

³² *NPRM* at ¶ 72.

charges for such facilities should be flat-rated."³³ As a matter of principle, the Ad Hoc Committee supports flat-rated (rather than per-minute) charges to recover non-traffic-sensitive costs, such as the costs of dedicated trunks, line cards, and ports; but the decision to allow such charges can not be made in a vacuum.

Before changing the current rate structure, the Commission should weigh the economic efficiency benefits of a new rate structure against the transaction and other costs of moving to the new structure. Such costs might include rate churn and rate shock to industries whose business models were built in reliance on price signals that would no longer be relevant. The Commission should also demand reliable indications of the economic efficiencies that would result from imposition of the new rate structure and base its determination on reliable data, not self-serving, conclusory claims.

Furthermore, and as explained above, the Commission should not proceed until it has first determined which costs the price cap incumbent LECs ("ILECs") will be permitted to recover.³⁴ It would be a wasted exercise -- and send confusing price signals to the marketplace -- to prescribe a rate structure based on fully embedded costs only to overhaul the entire scheme upon determining that ILECs should be limited to recovering forward-looking economic costs. Finally, the Commission should craft a rate structure that is easy to

³³ NPRM at ¶ 73.

³⁴ With few exceptions, the Commission has deferred to a later proceeding consideration of non-price cap ILECs' access rate structures. NPRM at ¶¶ 51, 56.